TITLE 6—SURETY BONDS

This title was enacted by act July 30, 1947, ch. 390, § 1, 61 Stat. 646

Sec.
[1 to 5. Repealed.]
6. Surety companies as sureties.
7. Same; appointment of agents; service of process.
8. Same; deposit of copy of charter.
9. Same; quarterly statements.
10. Same; jurisdiction of suits on bonds.
11. Same; nonpayment of judgment.
12. Same; estoppel to deny corporate powers.
13. Same; failure to comply with the law.
[14. Repealed.]
15. Bonds or notes of United States in lieu of recognizance, stipulation, bond, guaranty, or undertaking; place of deposit; return to depositor; contractors' bonds.

AMENDMENTS

1972—Pub. L. 92-310, title II, § 203(3), (4), June 6, 1972, 86 Stat. 202, substituted "Surety Bonds" for "Official and Penal Bonds" in the title heading, and struck out items 1, 2, 3, 4, 5, and 14 from the analysis of sections.

1955—Act Aug. 9, 1955, ch. 683, § 3, 69 Stat. 620, amended analysis, substituting, in item 14, "Purchase of bonds to cover officers and employees of the Federal Government" for "Rate of premium on bond; premiums not to be paid by United States."

TABLE

Showing the laws which were incorporated in sections of revised Title 6.

Statutes at Large	*Sec.*
Mar. 2, 1895, ch. 177, § 5, second paragraph, 28 Stat. 807; June 17, 1930, ch. 497, § 523, first paragraph, 46 Stat. 740	1
Mar. 2, 1895, ch. 177, § 5, third paragraph, 28 Stat. 807	2
Mar. 2, 1895, ch. 177, § 5, fourth paragraph, 28 Stat. 807; Mar. 8, 1928, ch. 148, 45 Stat. 247	3
Aug. 8, 1888, ch. 787, § 1, 25 Stat. 387	4
Aug. 8, 1888, ch. 787, § 2, 25 Stat. 387; as modified by June 10, 1921, ch. 18, § 301, 42 Stat. 23	5
Aug. 13, 1894, ch. 282, § 1, 28 Stat. 279	6
Aug. 13, 1894, ch. 282, § 2, 28 Stat. 279	7
Aug. 13, 1894, ch. 282, § 3, 28 Stat. 279; Mar. 23, 1910, ch. 109, 36 Stat. 241	8
Aug. 13, 1894, ch. 282, § 4, 28 Stat. 279; Mar. 23, 1910, ch. 109, 36 Stat. 241	9
Aug. 13, 1894, ch. 282, § 5, 28 Stat. 280	10
Aug. 13, 1894, ch. 282, § 6, 28 Stat. 280; as modified Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54	11
Aug. 13, 1894, ch. 282, § 7, 28 Stat. 280	12
Aug. 13, 1894, ch. 282, § 8, 28 Stat. 280	13
Aug. 5, 1909, ch. 7, 36 Stat. 125, first paragraph under "Department of Commerce and Labor"	14
Feb. 24, 1919, ch. 18, § 1320, 40 Stat. 1148; Nov. 23, 1921, ch. 136, § 1329, 42 Stat. 319; Feb. 26, 1926, ch. 27, §§ 2(a)(1), (6), 1126, 44 Stat. 9, 122; Feb. 4, 1935, ch. 5, § 7, 49 Stat. 22; Mar. 31, 1944, ch. 148, 58 Stat. 135, 136	15

POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act July 30, 1947, ch. 390, § 1, 61 Stat. 646, which provided in part that: "title 6 of the United States Code, entitled 'Official and Penal Bonds', is codified and enacted into positive law and may be cited as '6 U. S. C., § —' ". The title heading was changed to "Surety Bonds" by Pub. L. 92-310, title II, § 203(3), June 6, 1972, 86 Stat. 202.

REPEALS

Section 2 of act July 30, 1947, provided that the sections or parts thereof of the Statutes at Large covering provisions codified in this Act, insofar as such provisions appeared in former title 6 were repealed and provided that any rights or liabilities now existing under such repealed sections or parts thereof shall not be affected by such repeal.

FEDERAL RULES OF CIVIL PROCEDURE

Supersedeas and injunction bonds, see rules 62 and 65, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF APPELLATE PROCEDURE

Bond on application for stay of agency order pending review, see rule 18, Title 28, Appendix, Judiciary and Judicial Procedure.

Costs on appeal bond in civil cases, see rule 7, Title 28, Appendix.

[§§ 1 to 5. Repealed. Pub. L. 92-310, title II, § 203(1), June 6, 1972, 86 Stat. 202]

Section 1, acts July 30, 1947, ch. 390, 61 Stat. 646; Oct. 31, 1951, ch. 655, § 13, 65 Stat. 715, related to custody of official bonds.

Section 2, act July 30, 1947, ch. 390, 61 Stat. 647, directed the examination at least once every two years of the sufficiency of sureties on official bonds.

Section 3, acts July 30, 1947, ch. 390, 61 Stat. 647; Sept. 3, 1954, ch. 1263, § 15, 68 Stat. 1231, related to the renewal of bonds and the continuance of liability.

Section 4, act July 30, 1947, ch. 390, 61 Stat. 647, related to notice of delinquency of principal. The provisions of the section were reenacted by section 260 of Pub. L. 92-310, which is classified to section 497a of Title 31, Money and Finance.

Section 5, act July 30, 1947, ch. 390, 61 Stat. 648, related to limitation of actions against sureties.

§ 6. Surety companies as sureties

Whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is by the laws of the United States required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by a corporation incorporated under the laws of the United States or of any State having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings. Such recognizance, stipula-

tion, bond, or undertaking shall be approved by the head of department, court, judge, officer, board, or body executive, legislative, or judicial required to approve or accept the same. No officer or person having the approval of any bond shall require that such bond shall be furnished by a guaranty company or by any particular guaranty company.

(July 30, 1947, ch. 390, 61 Stat. 648; Aug. 9, 1955, ch. 683, § 2, 69 Stat. 620; June 6, 1972, Pub. L. 92-310, title II, § 203(2), 86 Stat. 202.)

AMENDMENTS

1972—Pub. L. 92-310 eliminated provisions which excepted bonds obtained under former section 14 of this title.

1955—Act Aug. 9, 1955, inserted exception with respect to bonds obtained under former section 14 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment by act Aug. 9, 1955, effective on Jan. 1, 1956.

FEDERAL RULES OF APPELLATE PROCEDURE

Bonds on appeal to Court of Appeals, see rule 7, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7, 8, 9, 10, 11, 12, 13 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

§ 7. Same; appointment of agents; service of process

No such company shall do business under the provisions of sections 6 to 13 of this title beyond the limits of the State or Territory under whose laws it was incorporated and in which its principal office is located, nor beyond the limits of the District of Columbia, when such company was incorporated under its laws or the laws of the United States and its principal office is located in said District, until it shall by a written power of attorney appoint some person residing within the jurisdiction of the court for the judicial district wherein such suretyship is to be undertaken, who shall be a citizen of the State, Territory, or District of Columbia, wherein such court is held, as its agent, upon whom may be served all lawful process against such company, and who shall be authorized to enter an appearance in its behalf. A copy of such power of attorney, duly certified and authenticated, shall be filed with the clerk of the district court of the United States for such district at each place where a term of such court is or may be held, which copy, or a certified copy thereof, shall be legal evidence in all controversies arising under sections 6 to 13 of this title. If any such agent shall be removed, resign, or die, become insane, or otherwise incapable of acting, it shall be the duty of such company to appoint another agent in his place as hereinbefore prescribed, and until such appointment shall have been made, or during the absence of any agent of such company from such district, service of process may be upon the clerk of the court wherein such suit is brought, with like effect as upon an agent appointed by the company. The officer executing such process upon such clerk shall immediately transmit a copy thereof by mail to the company, and state such fact in his return. A judgment, decree, or order of a court entered or made after service of process as aforesaid shall be as valid and binding on such company as if served with process in said district.

(July 30, 1947, ch. 390, 61 Stat. 648.)

FEDERAL RULES OF CIVIL PROCEDURE

Process and proof of official records, see rules 4 and 44 of Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8, 9, 10, 11, 12, 13 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

§ 8. Same; deposit of copy of charter

Every company, before transacting any business under sections 6 to 13 of this title, shall deposit with the Secretary of the Treasury of the United States a copy of its charter or articles of incorporation, and a statement, signed and sworn to by its president and secretary, showing its assets and liabilities. If the said Secretary of the Treasury shall be satisfied that such company has authority under its charter to do the business provided for in sections 6 to 13 of this title, and that it has a paid-up capital of not less than $250,000, in cash or its equivalent, and is able to keep and perform its contracts, he shall grant authority in writing to such company to do business under sections 6 to 13 of this title.

(July 30, 1947, ch. 390, 61 Stat. 649.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7, 9, 10, 11, 12, 13 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-244 of the District of Columbia Code.

§ 9. Same; quarterly statements

Every such company shall, in the months of January, April, July, and October of each year, file with the said Secretary of the Treasury a statement, signed and sworn to by its president and secretary, showing its assets and liabilities, as is required by section 8 of this title. The said Secretary of the Treasury shall have the power, and it shall be his duty, to revoke the authority of any such company to transact any new business under sections 6 to 13 of this title whenever in his judgment such company is not solvent or is conducting its business in violation of sections 6 to 13 of this title. He may institute inquiry at any time into the solvency of said company and may require that additional security be given at any time by any principal when he deems such company no longer sufficient security.

(July 30, 1947, ch. 390, 61 Stat. 649.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7, 8, 10, 11, 12, 13 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

§ 10. Same; jurisdiction of suits on bonds

Any surety company doing business under the provisions of sections 6 to 13 of this title may be sued in respect thereof in any court of the United States which has or may have jurisdiction of actions or suits upon such recognizance, stipulation, bond, or undertaking, in the district in which such recognizance, stipulation, bond, or undertaking was made or guaranteed, or in the district in which the principal office of such company is located. For the purposes of sections 6 to 13 of this title such recognizance, stipulation, bond, or undertaking shall be treated as made or guaranteed in the district in which the office is located, to which it is returnable, or in which it is filed, or in the district in which the principal in such recognizance, stipulation, bond, or undertaking resided when it was made or guaranteed.

(July 30, 1947, ch. 390, 61 Stat. 649.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7, 8, 9, 11, 12, 13 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

§ 11. Same; nonpayment of judgment

If any such company shall neglect or refuse to pay any final judgment or decree rendered against it upon any such recognizance, stipulation, bond, or undertaking made or guaranteed by it under the provisions of sections 6 to 13 of this title, from which no appeal or supersedeas has been taken, for thirty days after the rendition of such judgment or decree, it shall forfeit all right to do business under sections 6 to 13 of this title.

(July 30, 1947, ch. 390, 61 Stat. 649.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7, 8, 9, 10, 12, 13 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

§ 12. Same; estoppel to deny corporate powers

Any company which shall execute or guarantee any recognizance, stipulation, bond, or undertaking under the provisions of sections 6 to 13 of this title shall be estopped in any proceeding to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute or guarantee such instrument or assume such liability.

(July 30, 1947, ch. 390, 61 Stat. 649.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7, 8, 9, 10, 11, 13 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

§ 13. Same; failure to comply with law

Any company doing business under the provisions of sections 6 to 13 of this title which shall fail to comply with any of its provisions shall forfeit to the United States for every such failure not less than $500 nor more than $5,000, to be recovered by suit in the name of the United States in the same courts in which suit may be brought against such company under the provisions of sections 6 to 13 of this title, and such failure shall not affect the validity of any contract entered into by such company.

(July 30, 1947, ch. 390, 61 Stat. 650.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7, 8, 9, 10, 11, 12 of this title; title 12 section 1766; title 29 sections 308d, 502, 1112, 1363.

[§ 14. Repealed. Pub. L. 92-310, title II, § 203(1), June 6, 1972, 86 Stat. 202]

Section, acts July 30, 1947, ch. 390, 61 Stat. 650; Aug. 9, 1955, ch. 683, § 1, 69 Stat. 618, related to the purchase of bonds to cover officers and employees of the Federal Government.

§ 15. Bonds or notes of United States in lieu of recognizance, stipulation, bond, guaranty, or undertaking; place of deposit; return to depositor; contractors' bonds

Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond", with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond, United States Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The bonds or notes deposited hereunder, and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with the Treasurer of the United States, a Federal Reserve bank, or other depositary duly designated for that purpose by the Secretary, which shall issue receipt therefor, describing such bonds or notes so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds or notes so deposited shall be returned to the depositor. In case a person or persons supplying a contractor with labor or material as provided by sections 270a to 270d of title 40 shall file with the obligee, at any time after a default in the performance of any contract subject to said sections 270a to 270d, the application and affidavit therein provided, the obligee shall not deliver to the obligor the deposited bonds or notes nor any surplus proceeds thereof until the expiration of the time limited by said sections 270a to 270d for the institution of suit by such person or persons, and, in case suit shall be instituted within such time, shall hold said bonds or notes or proceeds subject to the order of the court having jurisdiction thereof. Nothing herein contained shall affect or impair the priority of the claim of the United States against the bonds or notes deposited or any right or remedy granted by

said sections 270a to 270d or by this section to the United States for default upon any obligation of said penal bond. All laws inconsistent with this section are hereby so modified as to conform to the provisions hereof. Nothing contained herein shall affect the authority of courts over the security, where such bonds are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds for security in cases authorized by existing laws. The Secretary may prescribe rules and regulations necessary and proper for carrying this section into effect. The term "person" in this section means an individual, a trust or estate, a partnership, or a corporation; the term "Secretary" means the Secretary of the Treasury. In order to avoid the frequent substitution of securities such rules and regulations may limit the effect of this section, in appropriate classes of cases, to bonds and notes of the United States maturing more than a year after the date of deposit of such bonds as security. The phrase "bonds or notes of the United States" shall be deemed, for the purposes of this section, to mean any public-debt obligations of the United States and any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States.

(July 30, 1947, ch. 390, 61 Stat. 650.)

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 26, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Treasurer of the United States, referred to in this section, is an officer of the Treasury Department.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 section 101; title 26 sections 5177, 5403, 7101, 7485.